

☛ 09hr\_SC-En\_sb0119\_pt01



(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Environment...

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (September 2013)

## Senate

### Record of Committee Proceedings

#### **Committee on Environment**

##### **Senate Bill 119**

Relating to: open burning of solid waste, illegal storage or disposal of waste tires, and providing a penalty.

By Senators Lassa, Lehman and Taylor; cosponsored by Representatives Molepske Jr., Black, Smith, Kerkman, Benedict, Townsend, A. Ott, Clark and Sherman.

March 17, 2009      Referred to Committee on Environment.

October 6, 2009      **PUBLIC HEARING HELD**

Present:    (5)      None.  
Absent:    (0)      None.

##### Appearances For

- Julie Lassa, Stevens Point — Senator, 24th Senate District
- Jim Connors, Madison — Sierra Club

##### Appearances Against

- None.

##### Appearances for Information Only

- Steve Sisbach, Madison — DNR
- Jason Johns, Madison — National Solid Waste Management
- Kate Cooper, Madison — DNR

##### Registrations For

- Jennifer Giegerich, Madison — Wisconsin League of Conservation Voters
- Michael Welsh, Madison — Wisconsin Association of Local Health Departments & Boards
- Michael Welsh, Madison — Wisconsin Public Health Association
- Amber Meyer Smith, Madison — Clean Wisconsin
- Greg Hubbard, Madison — Waste Management
- Pete Christianson — Veolia Environmental Services Inc

##### Registrations Against

- None.

##### Registrations for Information Only

- None.

January 20, 2010

**EXECUTIVE SESSION HELD**

Present: (5) None.

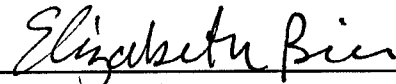
Absent: (0) None.

Moved by Senator Wirch, seconded by Senator Miller that **Senate Bill 119** be recommended for passage.

Ayes: (4) Senators Miller, Jauch, Wirch and Kedzie.

Noes: (1) Senator Olsen

PASSAGE RECOMMENDED, Ayes 4, Noes 1

A handwritten signature in cursive script, reading "Elizabeth Bier", written over a horizontal line.

Elizabeth Bier  
Committee Clerk

# Vote Record Committee on Environment

Date: 1.20.10

Moved by: Wirsch

Seconded by: Miller

AB \_\_\_\_\_

SB 119

Clearinghouse Rule \_\_\_\_\_

AJR \_\_\_\_\_

SJR \_\_\_\_\_

Appointment \_\_\_\_\_

AR \_\_\_\_\_

SR \_\_\_\_\_

Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_

A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

- ☒ Passage    ☐ Adoption    ☐ Confirmation    ☐ Concurrence    ☐ Indefinite Postponement  
☐ Introduction    ☐ Rejection    ☐ Tabling    ☐ Nonconcurrence

## Committee Member

**Senator Mark Miller, Chair**

**Senator Robert Jauch**

**Senator Robert Wirsch**

**Senator Neal Kedzie**

**Senator Luther Olsen**

Aye

No

Absent

Not Voting

☒

☐

☐

☐

☒

☐

☐

☐

☒

☐

☐

☐

☒

☐

☐

☐

☐

☒

☐

☐

**Totals:**

4

1

\_\_\_\_\_

\_\_\_\_\_

4

1

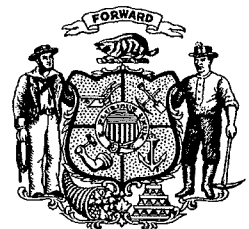


☒ Motion Carried

☐ Motion Failed



# WISCONSIN STATE LEGISLATURE



**Hearing Notes  
October 6, 2009**

**Call Public Hearing to Order and ask Clerk to call the roll**

- **ROLL CALL**

**SB 119, relating to open burning of solid waste, illegal storage or disposal of waste tires and providing a penalty**

- **Sen. Lassa**

**Public Hearing concludes, adjourn meeting**

**Executive Session Notes**  
**January 20, 2010**

**Call Executive Session to Order and ask Clerk to call the roll**

- ROLL CALL

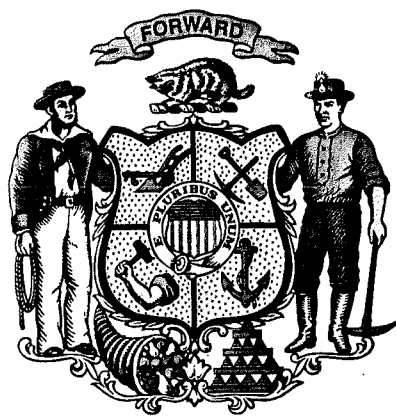
**SB 119**

Relating to open burning of solid waste, illegal storage or disposal of waste tires and providing a penalty

**SB 119**

- MOTION FOR PASSAGE
- SECOND
- DISCUSSION
- ROLL CALL

**Adjourn Executive Session**







## John Muir Chapter

Sierra Club - John Muir Chapter  
222 South Hamilton Street, Suite 1, Madison, Wisconsin 53703-3201  
Telephone: (608) 256-0565 Fax: (608) 256-4562  
<http://wisconsin.sierraclub.org>

---

**Support SB 119, Citations to Enforce against Open Burning of Solid Waste and  
Illegal Storage or Disposal of Waste Tires  
Before the Senate Environment Committee  
By Jim Connors, Volunteer Lobbyist, Sierra Club-John Muir Chapter  
October 6, 2009**

The Wisconsin Sierra Club urges the Senate Committee to support SB 119 authorizes the DNR and local law enforcement officials to issue citations for illegal open burning as well as illegal storage or disposal of waste tires. Last Session the Sierra Club supported a similar bill that was recommended by the Senate Environment and Natural Resources Committee by a vote of 4-1, passed the Senate in February 2008 but died in the Assembly.

**Serious health hazards** Open burning presents a number of serious health hazards to Wisconsin citizens. open burning is the number one uncontrolled source of dioxin emissions. Studies by both the EPA and Environment Canada have consistently identified residential burning of household garbage as a significant anthropogenic source of dioxins. With enforcement of other sources of dioxin, open burning will become the dominant source of dioxins/furans. (see end of testimony)

“For dioxin, the pathway into humans is generally not from breathing the smoke from a neighbor’s barrel. The air-to-leaf pathway for dioxin, followed by bioconcentration in animal fat is generally accepted by the scientific community as the predominant pathway to most humans. For other pollutants, such as fine particulates and polyaromatic hydrocarbons, inhalation is the pathway of greatest concern. Since the majority of dioxin intake to humans comes from food sources (especially animal fats and dairy products), then dioxin emissions from burn barrels impact a wide population when they land on feed crops and are concentrated in the bodies of farm animals. Because of the predominant distribution of burn barrels in agricultural areas, they may contribute a disproportionate amount of the overall dioxins in meat /dairy foods.” (Source: The Burn Barrel Subgroup formed under the Great Lakes Binational Toxics Strategy as follows: (see their website at [http://www.c2p2online.com/main.php3?section=137&doc\\_id=289&session=](http://www.c2p2online.com/main.php3?section=137&doc_id=289&session=))

Other air pollutants associated with burn barrels, such as volatile organics, fine particulate matters, and polyaromatic hydrocarbons, and heavy metals, are ingested directly by humans who inhale the smoke from burning garbage.

**Number one cause of wildfires** Furthermore, these open burning violations are the number one cause of wildfires in Wisconsin, according to the DNR. Wildfires threaten the lives of people, livestock and personal property and the fires may also spread to public lands.

**Modest fines** SB 119 provides an enforcement mechanism to supplement educational outreach on the health and other dangers of open burning. There is a one year delay in the effective date to allow for publicity about the bill and education. First offenses at a private residence are subject to only a \$5 fine with a maximum of \$500. For egregious violations, SB119 authorizes arrest for a person detected actually committing a violation.

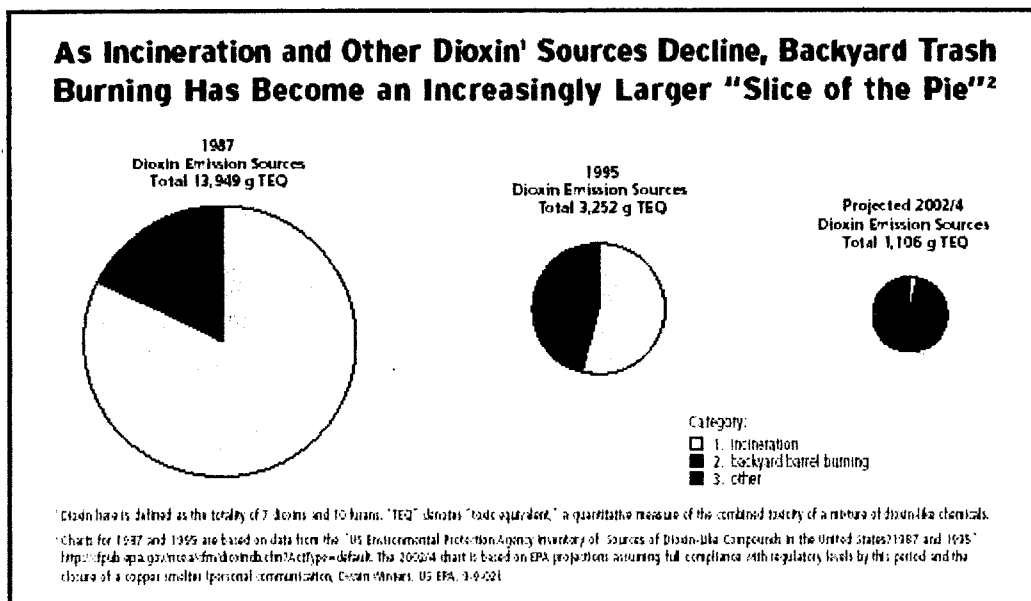
**Illegal for 30 years** There is no technological fix for the problems associated with open burning, such as burn barrel design or separation of waste for burning. The only solution is for people to stop burning garbage. The fact that open burning continues to be a serious problem, despite a 30-year history of being illegal, points to the need for better enforcement. SB 119 provides this much needed enforcement.

**Waste Tires** SB 119 also provides the DNR with an additional tool to deal with illegal storage or disposal of waste tires. The July 2005 waste tire fire in Watertown highlighted a gap in existing statutory authority to deal with problematic waste tire storage. The fire at Watertown Tire Recycling Company was at a site where about one million tires were stored under conditions that did not meet the permit or state requirements for fire and pollution prevention. SB 119 provides citation authority for these instances

**We urge the Committee to adopt SB 119 and recommend it for passage in the full Senate.** Thank you for the opportunity to share the views of the Sierra Club.

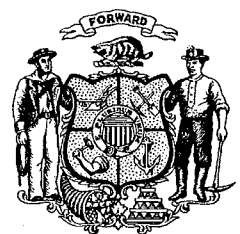
-----  
Excerpt from pages 5-6 of the Open Burning and Backyard Dumping Stakeholder Group Report,  
<http://www.dnr.state.wi.us/environment/protect/ob/pdf/obSteeringReport.pdf>

“The United States Environmental Protection Agency (EPA) Dioxin Re-Assessment estimates that 19 percent of total quantifiable annual releases for 1995 of dioxins/furans are generated by residential burning of household garbage. This figure is supported by EPA emission tests on the burning of household/commercial waste in barrels. The Lake Superior Lake-wide Management Plan (LaMP) has identified this source as a priority target for achieving zero emissions. Environment Canada’s February 2001 Inventory of Releases of Dioxin identifies Burn Barrels as the third largest source (nationally) behind conical burners and medical waste incinerators; and also fourth (in Ontario) behind medical and hazardous waste incinerators, and iron sintering. As control of incinerators is realized, then the relative percent generated from burn barrels is expected to increase and become the dominant source of dioxins/furans. The following graphic was produced by the Chlorine Chemical Council based upon U.S. EPA data.”





# WISCONSIN STATE LEGISLATURE



## DNR Testimony on SB 119 before the Senate Environment Committee

October 6, 2009

Good morning. My name is Kate Cooper and I am the Section Chief for Recycling and Solid Waste in DNR's Waste and Materials Management Bureau. I am here this morning with Steve Sisbach, Section Chief for Environmental Enforcement and Emergency Management, to provide background on DNR's role in the enforcement of the State's open burning regulations, how proposed SB 119 would affect that role and to answer questions.

**Illegal burning is a health and safety problem in our state.** We see that health and safety problem manifested in a couple of different ways. First, open burning is the number one cause of wild fires and forest fires in Wisconsin. Every year, wild fires started by illegal burning result in financial loss, injury and sometimes, unfortunately, death. Second, illegal open burning is the largest source of citizen complaints related to air pollution and is a significant source of complaints received by staff in the Waste & Materials Management program. DNR is dedicated to assuring that Wisconsin citizens have healthy air to breathe. According to EPA, open burning is the largest source of dioxin emissions – dioxin is a known carcinogen. In addition, smoke from illegal burning also contains carbon monoxide, aldehydes, volatile organic compounds, and fine particulates which can lead to asthma and other respiratory and heart problems. Children, the elderly and persons with existing respiratory and heart problems are especially vulnerable.

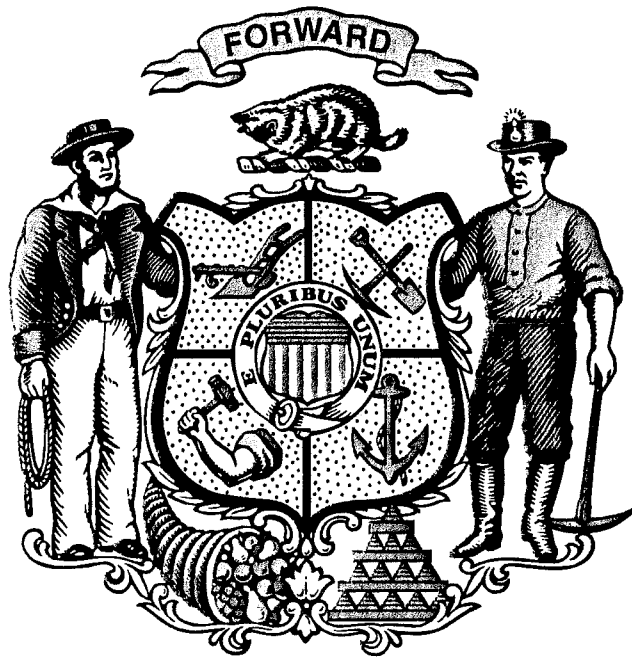
**The legislation being considered doesn't change what is currently legal and illegal to burn. Citizens will still be able to burn brush piles and clean wood following burn permit regulations. This legislation would give our forest rangers, wardens and local law enforcement officials a tool to stop people from burning waste such as sofas, tires, old mobile homes.** For 25 years in Wisconsin it's been illegal to burn plastics, asphalt, garbage,

waste oil and other products because the smoke is toxic and can cause cancer. Citations can presently be issued for burning without a fire permit, but not for burning illegal materials. This bill gives DNR a streamlined tool to stop people if they ignore safe burning practices and endanger their neighbors. In a time of scarce state resources, it allows DNR to do more with less.

Let me explain that last statement. Under current state law, the DNR must prosecute illegal open burning through referrals made to the Department of Justice. This works well for large, complex environmental pollution cases but is impractical for simpler illegal open burning situations due to the resources needed to prosecute through the court system. This means that fewer cases are pursued and DNR is unable to adequately respond to many legitimate citizen complaints about their health and safety. Going back to my previous point relating to the public health and safety, small fires can turn into big fires in a hurry, so therefore the ability to achieve compliance through citations on smaller fires is just as critical as large fires.

In closing, let me repeat that illegal open burning is a serious health and safety concern for the citizens of Wisconsin. This bill would provide a more efficient means for addressing citizen complaints without significantly increasing the cost of that service.

Thank you for your attention. I would be happy to answer any questions you might have.





National Solid Wastes Management Association  
The Voice of the Private Waste Services Industry

**To:** Senate Committee on the Environment  
**From:** Jason E Johns, on behalf of NSWMA  
**Re:** Support for SB 119  
**Date:** October 6, 2009

**Members of the Committee:**

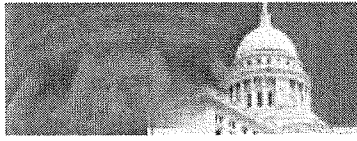
The Wisconsin chapter of the National Solid Wastes Management Association, consisting of private waste haulers and landfill operators, wishes to express its support for SB 119. Our industry constantly strives to improve our business's environmental impact through innovative technologies and encouraging public awareness of how they can help. SB 119 helps us in pursuing this goal. It is no secret the environmental hazards that open burning of solid waste and the illegal storage of tires pose. There are indeed statutes that regulate both these situations but the enforcement arms of these statutes are similar to traffic citations and thus are insufficient to properly deter the practice of either. SB 119 provides the teeth to these statutes to allow for appropriate enforcement mechanisms and penalties by the DNR.

In addition, NSWMA is concerned that due to the recent increase of the tipping fee from \$5.90 to \$13.00 per ton (a 120% increase) in the budget, the state will see a huge increase in "back 40 burning" by individuals and rural businesses to avoid paying this fee.

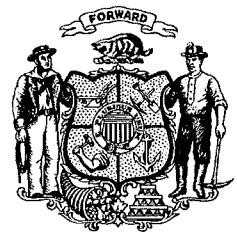
We request your support for SB 119 to allow the DNR to properly enforce the laws regulating open burning and to assist us in our goal to continue making Wisconsin as "green" as it can be.

Thank you,

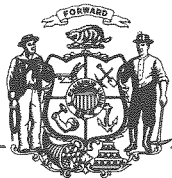
Jason E Johns  
On behalf of the NSWMA



# WISCONSIN STATE LEGISLATURE







# JULIE LASSA

## STATE SENATOR

**Senate Bill 119**  
**Senate Committee on the Environment**  
**Tuesday, October 6, 10:00 a.m.**  
**300 Southeast**

Chairman Miller and Committee Members,

Thank you for the opportunity to provide testimony today on Senate Bill 119, which brings educational and enforcement change to Wisconsin's laws regarding the burning of solid waste.

I would like to begin by clarifying some facts regarding this bill. It is now already illegal in Wisconsin to burn solid waste without a permit. The open burning of trash, garbage, and a variety of specific substances such as insulation, plastics, tar paper, and used oils, is against the law in our state and has been for many years. The intent of SB 119 is simply to clarify and extend certain enforcement provisions. Those who claim that it is too difficult or inconvenient for people in rural areas to dispose of their waste legally have a problem with existing, long-standing statutes, not with this bill.

Secondly, this bill does nothing to change current state law that affects burning untreated wood, leaves, dry grass, or brush. While municipalities may regulate these activities, they are not prohibited by Wisconsin law, and this bill does not change that.

What SB 119 does is make it easier to enforce laws that prohibit an activity that results in the emission of hazardous pollutants. Open burning is the number one cause of wildfires in Wisconsin, and the number one source of air pollution complaints to the DNR. Open burning is also the largest source of dioxin emissions, and jeopardizes both the environment and people's health.

Dioxin, which is a toxic compound, originates from the burning of trash, wood and other substances, particularly during low temperature burning. This compound can cause health problems in humans when it settles on our feed crops, where it can then be consumed and stored in the fat of livestock animals and eventually ingested by humans through red meat and milk consumption.

Dioxin is also problematic for humans due to the fact that it can be inhaled through the air that we breathe. Amongst other health risks for humans, dioxin can be a carcinogen, affect breathing, produce developmental abnormalities in the enamel of children's teeth, induce central and peripheral nervous system pathology, cause thyroid disorders, damage the immune system, and lead to diabetes.

According to a 1994 study by the United States Environmental Protection Agency, each pound of garbage burned in a burn barrel emits twice as many furans (which are harmful organic compounds), 20 times more dioxin and 40 times more particulates than if that same pound of garbage were burned in an incinerator with air pollution controls.

Due to the hazardous effects, a number of communities across the state have already adopted ordinances banning open burning. However, there is no uniform standard, and patchwork ordinances often lead to

confusion and ineffective enforcement. In addition, enforcement of ordinance violations rests with local sheriff's departments, which are often unable to dedicate their limited resources to policing open burning. Further, in communities that lack open burning ordinances, the only mechanism for enforcement is through court action by the Department of Justice, which, as we all know, has limited resources that are generally used to prosecute the most appalling violations.

Our constituents and industries lose when our open burning laws are not enforced. This bill aims to alleviate this problem by allowing the Department of Natural Resources to also have citation authority over open burning violations.

For many years, the open burning of waste was an accepted practice, from the open dump fire to the back yard incinerator. Open burning in dumps has long been a thing of the past, but because of the spotty enforcement of the law, many citizens are not aware that open burning is illegal or of its harmful effects on humans and livestock. With that idea in mind, the bill does not allow the DNR to issue any fines for the first year after the bill becomes law. After the first year, all first time violators will receive a maximum penalty of \$5. Subsequent violators would be subject to a maximum penalty of \$500. We expect that as people learn about the risks involved and as they become aware that it is illegal, fewer people will burn solid waste.

While working with the DNR on developing this legislation, it was brought to our attention that another important aspect of this issue is the ability to enforce regulations at solid waste facilities that store waste tires. As many of you may recall from 2005, a massive tire fire in Shields, Wisconsin may have been averted if a citation process had been in place for tire storage. Prior to the fire, DNR inspections found that not only did the facility not maintain adequate fire lanes, it also had an estimated 6,500 tons of tire material stored at the facility—over three times its approved amount. Unfortunately, due to the limited resources of current enforcement agencies, the company was not compelled to comply with the laws, resulting in a fire that burned for six days. This bill authorizes the DNR to issue citations to those who operate tire storage facilities, thereby again allowing the department that actually investigates complaints to also enforce them. Fines can range from \$10 to no more than \$5,000 for each violation, with each day of continued violation considered a separate offense.

In conclusion, let me state that I recognize that there are isolated parts of rural Wisconsin where solid waste disposal is difficult and inconvenient. But permitting individuals to deal with that situation by engaging in an illegal activity that threatens public health is not the solution, and in fact probably helps to perpetuate the situation by removing the demand for more accessible waste treatment options. To be effective, our anti-pollution laws must be fully and fairly enforced. I ask for your support for SB 119.